

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RICHARD A. ADAMS, On behalf of himself and on  
behalf of all others similarly situated, :

Plaintiff, :

- against - : NOTICE OF MOTION

IBM PERSONAL PENSION PLAN and :  
KENNETH J. MORRISSEY, Plan Administrator, :

Defendants. :

ECF CASE

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PLEASE TAKE NOTICE that Defendants IBM Personal Pension Plan and Kenneth J. Morrissey, Plan Administrator, by their attorneys, Covington & Burling LLP, will move this Court, before the Honorable Jed S. Rakoff, United States District Judge, at the United States Courthouse, Courtroom 14-B, 500 Pearl Street, New York, New York, for an Order (1) dismissing the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6); (2) in the alternative, transferring the action to the Northern District of Georgia, pursuant to 28 U.S.C. § 1404(a); and (3) granting such other and further relief as the Court deems just and proper.

In accordance with the briefing schedule set by the Court on August 27, 2007, Defendants will serve and file their moving papers on or before September 6, 2007; Plaintiff will serve and file his response on September 20, 2007; and Defendants will serve and file their reply on October 4, 2007. Oral argument will be held on October 11, 2007 at 11 a.m.

Dated: New York, New York  
August 30, 2007

COVINGTON & BURLING LLP

By: s/ David Z. Pinsky  
David Z. Pinsky

620 Eighth Avenue  
New York, New York 10018  
(212) 841-1000

*Attorneys for Defendants*